

AMENDMENT

In the Claims:

Please cancel claim 34 without prejudice or disclaimer.

REMARKS

Claims 29-30, 32, 34 and 44-61 are currently pending. Claims 29, 30, 32, 34, 44-45, 50, 51 and 56-57 are currently being examined. Claim 34 is canceled herein, thus rendering the outstanding issues of the present Office action moot.

In the present action, the Office has acknowledged the Applicant's election of Group X, as well as the election of the species bladder cancer. In addition, the Office has rejoined claim 29 (Group IX) with the claims listed in Group X. However, in addition, the Office has provided what appears to be a further species election requirement. Although the issue is moot in view of the present cancellation of claim 34, the Applicants respectfully note that there is ambiguity regarding whether the Office requires a separate restriction in the current action, or an election of another species.

With regard to the Office's response to the traversal of the present restriction (see Paper 16, page 2, first paragraph), the Applicant's respectfully provide the following response.


In response to the Office's point 1) on page 2 of Paper 16, it is general knowledge in molecular biology that, *with rare exceptions*, production of mRNA is predictive of production of the corresponding protein. As provided before, the invention does not lie in any kind of novel procedure to measure the expression of the gene; the level of expression can be measured either by measuring mRNA levels or protein levels as the gene is transcribed and translated. To support this position, enclosed herewith as Exhibit A is testimony from an expert in the field

establishing that mRNA production is an art recognized method of ascertaining that protein is produced (Declaration of Dr. Challita-Eid).

In response to the Office's point 2) on page 2 of Paper 16, the Applicants direct the Office's attention to the currently pending claims. The pending claims are directed to measuring and comparing similar parameters of 20P2H8 expression between test biological samples and normal samples.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket No. 511582002100.

Dated: October 31, 2002

Respectfully submitted,

By: _____
David L. Devernoe
Registration No. 50,128
Morrison & Foerster LLP
3811 Valley Centre Drive, Suite 500
San Diego, California 92130-2332
Telephone: (858) 720-7943
Facsimile: (858) 720-5125